IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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JUDGMENT

Mangi Lal.
vs.
Madho Dan.

S.B.CIVIL SECOND APPEAL NO.154/2006 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 19.1.2006 PASSED BY SHRI O.P. SINGH, ADDITIONAL DISTRICT JUDGE, BALI IN CIVIL APPEAL NO.32/1999.

DATE OF JUDGMENT ::: 24.4.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. PM Vyas, for the appellant.

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BY THE COURT:

Heard learned counsel for the appellant.

The trial court decreed the suit of the plaintiff/ respondent for eviction of the appellant/tenant vide judgment and decree dated 21.8.1999. The first appellate court upheld the judgment and decree of the trial court vide its judgment and decree dated 19.1.2006.

Brief facts of the case are that the plaintiff filed suit for eviction of the tenant/defendant with the allegation that the suit property was let out to the defendant on 21.1.1993 for rent of Rs.50/- per month for which rent deed was executed by the defendant. After serving notice, the suit was filed by respondent/landlord.

In the written statement, the defendant claimed that he is not the tenant and submitted that there was money transaction between the plaintiff and defendant and during that course of business transaction, the plaintiff obtained signatures of the appellant on several papers. The defendant also pleaded that the suit property is defendant's ancestral property and in case, any sale deed is got executed from him in favour of the plaintiff, then that sale deed is forged, therefore, the suit be dismissed.

In the trial court, the plaintiff produced documentary evidence and also produced witnesses to prove his case, whereas the defendant himself appeared in the witness box and produced two witnesses Man singh and Jabbar Singh. No documentary evidence was produced by the defendant/tenant despite taking the plea that the suit property is his ancestral property. The defendant also did not produce any evidence in support of his plea that he is residing in the house for last 40 years.

Learned counsel for the appellant submitted that the defendant has got the patta of the house but admitted that patta was not produced. Not only this, sufficient facts about how the title of the property vest in the defendant

or his ancestors has also not been pleaded, apart from the fact that no document has been produced.

The concurrent finding of fact is based on evidence produced by the parties and suffers from no error so as to call for interference by this Court.

In view of the above, I do not find that any substantial question of law arises in this appeal, therefore, this appeal deserves to be dismissed, hence, dismissed.

(PRAKASH TATIA), J.

S.Phophaliya